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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,747	11/03/2003	John H. Shaddock	EDGE.004C1	4257
20995 7590 03/05/2009 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
BUL VY Q				
ART UNIT		PAPER NUMBER		
3773				
NOTIFICATION DATE		DELIVERY MODE		
03/05/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/699,747

Applicant(s)

SHADDUCK, JOHN H.

Examiner

Vy Q. Bui

Art Unit

3773

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 recites the limitation "the working end" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Specification

The amendment filed 8/19/2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "without rotating the working surface relative to the longitudinal axis of the instrument body" (claim 1), and "without rotating the abrading structure relative to adjacent portions of the handheld device" (claim 19).

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claims 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Bays et al.-6,423,078.

As to claims 15-17, Bays-'078 (Fig. 1-4) discloses a dermabrasion device comprising working surface of abrading structure 40 having undulations (Fig. 6), coupling 46 (Fig. 1) connecting to a suction source (not shown) to suck debris through ports or openings 50, coupling 30 (Fig. 1 and 3) connecting to an irrigation source (not shown) for providing a fluid to port 36 (Fig. 2) and inherently a method as recited in the claims.

Claims 1-4, 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Bays et al.-6,423,078.

As to claims 1-4, and 19-20 Bays-'078 (Fig. 1-4) discloses a dermabrasion device comprising working surface having ports 36 of element 22 (Fig. 6) with abrading structure 20 (Fig. 2), coupling 46 (Fig. 1) connecting to a suction source (not shown) to suck debris through apertures or ports openings 50 (Fig. 6) near the working surface, coupling 30 (Fig. 1 and 3) connecting to an irrigation source (not shown) for providing a fluid to outflow ports 36 (Fig. 2, 6) and inherently a method as recited in the claims. Notice that working surface having ports 36 of element 22 does not rotate relatively to the longitudinal axis of the device body.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 5-8, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bays et al.-6,423,078 in view of Kligman et al.-6,869,611.

As to claims 5-8 and 18, Bays et al-6,423,078 discloses substantially all limitations recited in the claims, except for the fluid is an active agent for treating skin such as citric acid, lactic acid, alpha-hydroxy acid, glycolic acid. However, Kligman-'611 (col. 1, lines 38-49, for example) discloses glycolic acid, citric acid, lactic acid, alphahydroxy acid as popular agent for treating skin. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a skin treatment agent as disclosed by Kligman-'611 in an irrigation fluid as recited in the claims as the skin treatment agents are well known for treatment a skin.

2. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bays et al-6,423,078 in view of Molinari-5,037,432.

As to claim 9, Bays et al-6,423,078 discloses substantially all limitations recited in the claims, except for the fluid is provided with a crystalline abrasive. However, Molinari-'432 (col. 2, lines 17-24, for example) discloses providing micro-crystals of quartz, corundum in a fluid as abrasive to treat a skin surface. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide micro-crystals of quartz or corundum in a fluid as an abrasive to treat a skin surface for a Bays-'078 device, as providing these abrasives are well known as disclosed by Molinari-5,037,432 for treatment of a skin.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bays et al-6,423,078.

As to claim 10, Bays et al-6,423,078 discloses substantially all limitations recited in the claims, except for portions 27 of the working surface defining undulations. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to make portions

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27 of working surface having ports 36 defining undulations by making portions 27 convex as this configuration would prevent edges of portions 27 from cutting a skin.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/

Primary Examiner, Art Unit 3773